

April 12, 2013

GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA



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**The following constitutes
the order of the court. Signed April 12, 2013**

**M. Elaine Hammond
U.S. Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

In re
PACIFIC THOMAS CORPORATION, dba
PACIFIC THOMAS CAPITAL, dba
SAFE STORAGE,
Debtor

Case No. 12-46534 MEH

Chapter 11

KYLE EVERETT, CHAPTER 11 TRUSTEE,

Adv. Proc. No. 13-04079

Plaintiff,

vs.

RANDALL WHITNEY aka RANDALL C.M. WHITNEY aka RANDALL WORSLEY aka RANDALL C.M. WORSLEY, an individual; PACIFIC TRADING VENTURES dba SAFE STORAGE MANAGEMENT COMPANY, a California corporation; PACIFIC TRADING VENTURES, LTD. ("PTVL"), a Nevada corporation; and JILL V. WORSLEY aka V. JILL WORSLEY, an individual,

Defendants.

Adv. Proc. No. 13-04079

**TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE
ISSUANCE OF PRELIMINARY
INJUNCTION**

1 The Court, having read and considered Plaintiff's Emergency Motion for Temporary
2 Restraining Order and Order to Show Cause for Preliminary Injunction; Memorandum of Points
3 and Authorities and Declaration of Kyle Everett in Support Thereof, finds as follows:

4 1. Plaintiff has shown that there is a strong probability that harm will occur if this
5 matter is not heard on an emergency basis;

6 2. Plaintiff has shown that it has ascertainable rights in need of protection so as to
7 preserve assets of the estate of Pacific Thomas Corporation dba Pacific Thomas Capital dba Safe
8 Storage ("PTC");

9 3. Plaintiff has shown that it has a fair chance of success on the merits;

10 4. Plaintiff has shown that it will likely suffer irreparable harm if an injunction does
11 not issue so as to prevent loss of assets of PTC and interference with Plaintiff's administration of
12 PTC's estate as Chapter 11 Trustee;

13 5. Plaintiff has shown that it has no adequate remedy at law or in equity in that absent
14 issuance of a temporary restraining order, the PTC's estate will likely suffer substantial harm with
15 loss of its assets.

16 Wherefore, it is hereby ordered:

17 A. Defendants Randall Whitney, Pacific Trading Ventures dba Safe Storage
18 Management Company ("PTV"), Pacific Trading Ventures, Ltd., and Jill Worsley (collectively,
19 "Defendants") and their respective offices, agents, servants, employees and all other persons who
20 are in active concert or participation, are restrained from:

21 1. Interfering with Plaintiff: (i) accessing real property of which PTC is record
22 owner, including real property located at 2615 E. 12th Street, 2783 E. 12th
23 Street, 2801 E. 12th Street, 1111 29th Avenue, 1113-15 29th Avenue, and
24 adjacent parking lots, in Oakland, California (the "Premises"); (ii) taking
25 possession of the Premises; and (iii) operating the Premises;

26 2. Interfering with any of the tenants or lessees of the Premises;
27 3. Withholding any assets, rents, books and records relating to or arising from the
28 Premises;

- 1 4. Refusing to turnover all rents, issues and profits generated from the Premises;
2 and
3 5. Refusing to permit Plaintiff access to the Premises to conduct such inspections
4 as Plaintiff may reasonably require of the books and records and other
5 purposes, and further enjoining Defendants not to obstruct or interfere with
6 such inspections.
- 7 6. Refusing to turnover the following books and records to Plaintiff:
8 a. A detailed accounting of all funds received, or disbursed, by non-debtor
9 entities, on behalf of PTC in connection with the Premises, including, but
10 not limited to, the Safe Storage Facility for each of the 12 months
11 immediately prior to PTC's bankruptcy filing date of August 6, 2012 (the
12 "Petition Date") and each of the months from the Petition Date through the
13 present, including, but not limited to, access to all system and source data
14 for all the funds received or disbursed in connection with the Safe Storage
15 Facility;
16 b. All books and records, including, but not limited to, all banking statements
17 and cancelled checks, detailing all funds received, or disbursed, by non-
18 debtor entities, on behalf of PTC in connection with the Premises,
19 including, but not limited to, the Safe Storage Facility, for each of the 12
20 months immediately prior to the Petition Date and each of the months from
21 the Petition Date through the present, including, but not limited to, access
22 to all system and source data;
23 c. A historical rent roll, for each of the 12 months immediately prior to the
24 Petition Date and each of the months from the Petition Date through the
25 present, for all properties owned by PTC, including tenant payment dates,
26 check numbers, and payment amounts, the period for which the tenant
27 payments were made, and the current tenant unpaid balances;
28 d. All monthly expense reconciliations between PTC and PTV;

e. For each transfer that PTV has made to PTC since the Petition Date, (i) the PTV check number (or identification of wire transfer), (ii) the transfer date, (iii) the tenant(s) for which the transfer is made, and (iv) the location of the property and number of spaces used if it is for parking.

B. This temporary restraining order shall remain in full force and effect for fourteen days from the date hereof unless sooner modified or dissolved by this Court.

C. Pursuant to Federal Rule of Bankruptcy Procedure 7065, Plaintiff need not post security pursuant to FRCP Rule 65(c).

D. This temporary restraining order is entered at 2:20 p.m. on April 12, 2013.

11 E. On April 26, 2013, at 1:00 p.m., the Court will conduct a hearing on an order to show
12 cause (“OSC”) why a preliminary injunction should not issue and remain in effect during the
13 pendency of this adversary proceeding to restrain the above Defendants and other restrained
14 parties from:

1. Interfering with Plaintiff: (i) accessing real property of which PTC is record owner, including the “Premises; (ii) taking possession of the Premises; and (iii) operating the Premises;
 2. Interfering with any of the tenants or lessees of the Premises;
 3. Withholding any assets, rents, books and records relating to the Premises;
 4. Refusing to turnover all rents, issues and profits generated from the Premises;
 5. Refusing to permit Plaintiff access to the Premises to conduct such inspections as Plaintiff may reasonably require of the books and records and other purposes, and further enjoining Defendants not to obstruct or interfere with such inspections; and
 6. Refusing to turnover the following books and records to Plaintiff:
 - a. A detailed accounting of all funds received, or disbursed, by non-debtor entities, on behalf of PTC in connection with the Premises, including, but not limited to, the Safe Storage Facility for each of the 12 months

immediately prior to the Petition Date and each of the months from the Petition Date through the present, including, but not limited to, access to all system and source data for all the funds received or disbursed in connection with the Safe Storage Facility;

- b. All books and records, including, but not limited to, all banking statements and cancelled checks, detailing all funds received, or disbursed, by non-debtor entities, on behalf of PTC in connection with the Premises, including, but not limited to, the Safe Storage Facility, for each of the 12 months immediately prior to the Petition Date and each of the months from the Petition Date through the present, including, but not limited to, access to all system and source data;
 - c. A historical rent roll, for each of the 12 months immediately prior to the Petition Date and each of the months from the Petition Date through the present, for all properties owned by PTC, including tenant payment dates, check numbers, and payment amounts, the period for which the tenant payments were made, and the current tenant unpaid balances;
 - d. All monthly expense reconciliations between PTC and PTV;
 - e. For each transfer that PTV has made to PTC since the Petition Date, (i) the PTV check number (or identification of wire transfer), (ii) the transfer date, (iii) the tenant(s) for which the transfer is made, and (iv) the location of the property and number of spaces used if it is for parking.

IT IS SO ORDERED.

* * * *

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